

85-3861

Date

13 NOV 1985

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Initials

Date

2. DIRECTOR OF MEDICAL SERVICES

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Coordination	Justify	

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5041-102	OPTIONAL FORM 41 (Rev. 7-76) Prescribed by GSA PPMR (41 CFR) 101-11.206

85-3861



OCCUPATIONAL HEALTH SERVICES, INC.
400 Plaza Drive, P.O. Box 1505, Secaucus, NJ 07094 201-865-7500

November 5, 1985

Harry Fitzwater
Deputy Director for
Administration
Central Intelligence Agency
Washington

DC
20505

Dear Mr. Fitzwater:

As the designated agency safety and health official, I am sure that you are aware that all Federal agencies are "covered" (US Dept. of Labor solicitor opinion, 25 July 1985)² by the OSHA "right-to-know" rule, formally known as the Hazard Communication Standard, 29, CFR 1910.1200¹.

The rule, as it applies to the Federal sector, requires all Federal agencies to:

- Obtain a Material Safety Data Sheet (MSDS) for each chemical they purchase or use.
- Use the information on the MSDS to inform and train employees who are potentially exposed.
- Maintain the integrity of labels on incoming containers.
- Prepare a master list of hazardous chemicals used in their agencies.

1. The MSDS provisions are effective 25 November 1985. The employee training, labeling , and other provisions become effective 25 May 1986.
2. July 25, 1985 Solicitor's Opinion, US Department of Labor which says in part "Application of the standard to Federal agency heads may not, however, be construed as requiring private employers to take any action with respect to Federal agencies, including supplying Material Safety Data Sheets to the Agencies."

--Inform contractors with respect to the nature of chemical hazards their employees may encounter while working at the agency.

--Develop a written plan for complying with the right-to-know standard.

As you can see, Material Safety Data Sheets (MSDSs) play a pivotal role in developing your agency's right-to-know program. The quality of your agency's program, in other words, will only be as good as the information reflected in the MSDSs.

Because MSDSs supplied by chemical companies may not be complete, accurate, and up to date, and because legally, the chemical industry does not have to supply MSDSs to Federal agencies under this standard, you should consider obtaining a set of MSDSs from Occupational Health Services, Inc., a leader in chemical database development, on either microfiche or magnetic tape.

In order to provide the private section, as well as government agencies with the most authoritative, accurate, up to date, and convenient source of objective MSDS' information that meets all the requirements of the OSHA Standard, Occupational Health Services, Inc. (OHS), has developed this unique MSDS file.

The user friendly file contains all the data elements specified in the latest OSHA draft voluntary MSDS form--the form destined to replace the old form 20. By focusing on the "technical grade" chemicals, the OHS data file contains information on the basic substances that are used to make mixtures and formulations that account for 95% by volume of all hazardous substances covered by the standard. Thus the 4,000 technical grade substances in the OHS file are the equivalent of the 120,000 manufacturer's MSDSs for these substances; there are over 250,000 mixtures made up of a combination of these 4,000 components as well. In accordance with the standard these mixtures "unless they have been tested as a whole" must carry the health hazards of their components.

The OHS file is developed, maintained, and updated by researchers and scientists who are not involved in manufacturing, distributing or selling chemicals, thus the information is not conceptually biased. Our staff consults a wide variety of data, including published and unpublished sources, as well as over 10,000 publications and periodicals.

In addition to providing you with unbiased, objective information on the hazards of chemicals and helping you comply with the OSHA right-to-know standard, the MSDSs derived from the database can help you in a number of other important ways including:

- It can improve your agency's decisionmaking with respect to which chemicals to purchase. By consulting the OHS MSDS microfiche or tape file, you can draft specifications for the least harmful product, or make decisions to substitute safer products for those that may have unacceptable risks.
- It can help you provide valuable technical assistance to others in the agency. When questions regarding exposure levels, health risks, labeling, safe conditions for use, personal protective equipment, proper storage, and disposal of a chemical arise, the data will be at your fingertips.
- It can help you supplement the information you receive from the chemical industry. A recent study done for the state of California estimated that over 80% of all chemical companies MSDSs reviewed were "unacceptable". (better than 30,000) While this will change, it will take time. In the interim, a comprehensive reference set of MSDSs will fill this important information gap.
- It can provide a convenient back up in case an MSDS is not shipped to you and a tool for evaluating ones that are.

As you consider your decision, weigh the fact that both EPA and OSHA have recently adopted the Occupational Health Service microfiche MSDS file as a standard. EPA's office of Employee Safety and Health is using the file to develop the EPA's "right-to-know" compliance program. OSHA has adopted the MSDS microfiche file as the principal resource to be used by all OSHA field compliance safety officers to gauge the accuracy and completeness of MSDSs supplied by chemical manufacturers. In fact, OSHA is not only supplying the file to the National Office, they are supplying copies to all ten regions as well.

In order to make things as convenient for you as possible, we can ship the complete OHS MSDS microfiche or tape file upon receipt of your agency's purchase order or invoice. In addition to the basic file you will receive the OHS cross reference index, a microfiche storage binder, all new MSDSs that we develop on an ongoing basis, and three quarterly updates of the data and cross reference index over the next twelve month period.

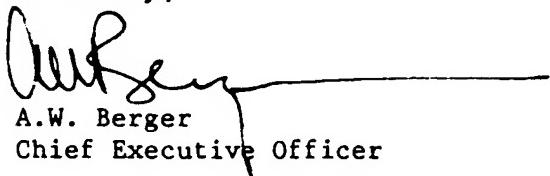
Enclosed is some additional information about the file. You can send your order to:

Roberta Cowan, Federal Coordinator
Occupational Health Services, Inc.
400 Plaza Drive
P.O. Box 1505
Secaucus, New Jersey 07094

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If you would like to discuss the file with our Washington representative or you need additional information, call us at 800-223-8978, or (201) 865-7500.

Sincerely,



A.W. Berger
Chief Executive Officer

AWB/rac
Enclosures - US Dept. of Labor Solicitors opinion



FEATURES AND BENEFITS OF THE OHS MSDS FILE

- o Singular MSDS Format
- o Updated in accordance with the new OSHA Hazard and Labeling Standard (over 7500 changes per quarter)
- o Easily read
- o Indexed by Substance
- o The equivalent of over 120,000 manufacturer's MSDSs on components or raw materials
- o Over 10,000 publications and periodicals reviewed annually
- o Provides audit or evaluation data and information on component used in over 500,000 mixtures
- o Represents information on substances that account for 92 - 95% by volume of all hazardous substances (subject to the new OSHA Standard) shipped in the United States
- o Expanding at the rate of 500 to 1000 component MSDSs per quarter
- o Over 100,000 synonyms
- o Covers all materials which are subject to these regulations and laws:
 - o 29 CFR 1910, Subpart Z, Toxic and Hazardous Substances, commonly referred to as the OSHA Z list.
 - o OSHA substance by substance regulations
 - o Threshold Limit Values (TLVs) for chemical substances and physical agents in the workplace environment, commonly referred to as the ACGIH Booklet (available from the American Conference of Governmental Industrial Hygienists, published annually).
 - o EPA Toxic Substances (Control Act (TOSCA) Section 8 (e)
 - o National Toxicology Program (NTP) annual report on carcinogens (published by NIOSH).
 - o International Agency for Research on Cancer (IARC) (non-drug)
 - o Department of Transportation

OCCUPATIONAL HEALTH SERVICES, INC.
MSDS MICROFICHE SERVICE

WHAT YOU GET

A Material Safety Data Sheet (MSDS) file that is consistent with the new OSHA Standard, including updating requirements and complete secondary source searching. Facilitates performing an audit and evaluation of existing manufacturers MSDSs. Enables you to create new MSDSs for mixtures, quickly and cost effectively.

The OHS MSDS microfiche package consists of:

- o The OHS cross reference index
 - hardcopy (printed) form and
 - microfiche (available in 24x or 48x)

The cross reference index allows substance identification by alternates. This includes: common name, trade name, synonyms, U.N. number, CAS number, and OHS number.

- o With the initial package, OHS provides a microfiche storage binder at no charge.
- o The full compliment of OHS MSDSs on microfiche (available in 24x or 48x)

All MSDSs that OHS has developed, and are being updated and maintained on an ongoing basis, for either generic substances (elements, compounds, raw materials, components) or mixtures. Each quarter OHS provides an update (January, April, July and October).

- o Three (3) additional quarterly updates (new editions) of all the above items, along with a transaction listing of all substances updated in each respective quarterly update.

OCCUPATIONAL HEALTH SERVICES, INC.
MSDS TAPE SERVICE

WHAT YOU GET

A Material Safety Data Sheet (MSDS) file that is consistent with the new OSHA Standard, including updating requirements and complete secondary source searching. Facilitates performing an audit and evaluation of existing manufacturers MSDSs. Enables you to create new MSDSs for mixtures, quickly and cost effectively.

The OHS MSDS tape service package consists of:

- o The OHS cross reference index
 - hardcopy (printed) form and
 - on magnetic tape

The cross reference index allows substance identification by alternates. This includes: common name, trade name, synonyms, U.N. number, CAS number, and OHS number.

- o An extraction program that enables you to select one or more MSDSs.
- o The full compliment of OHS MSDSs on magnetic tape

All MSDSs that OHS has developed, and are being updated and maintained on an ongoing basis, for either generic substances (elements, compounds, raw materials, components) or mixtures. Each quarter OHS provides an update (January, April, July and October).

- o Three (3) additional quarterly updates (new editions) of all the above items, along with a transaction listing of all substances updated in each respective quarterly update.

OCCUPATIONAL HEALTH SERVICES, INC.
MSDS MICROFICHE SERVICE
STANDARD PRICING SCHEDULE

Effective Dates24x Price/Set48x Price/Set

10/1/85

COMMERCIAL

1st Set	\$4500	\$4000
2nd - 5th Set	3500	3250
6th - 10th Set	3250	2750
11th Set +	3000	2500

FEDERAL, STATE & LOCAL
GOVERNMENT & EMERGENCY
RESPONSE FACILITIES

1st set	\$3500	\$3000
2nd - 5th Set	2750	2500
6th - 10th Set	2500	2250
11th Set +	2250	2100

MSDS TAPE SERVICECOMMERCIAL

PRINT IMAGE TAPE VERSION \$25,000 Per Year

ONLINE/INTERACTIVE VERSION \$30,000 Per Year

GOVERNMENT

PRINT IMAGE TAPE VERSION \$20,000 Per Year

ONLINE/INTERACTIVE VERSION \$24,000 Per Year

The above price includes quarterly updates at no charge for three consecutive quarters after the initial delivery. All updates are provided in the months of January, April, July and October.

CROSS REFERENCE INDEX SAMPLE PAGE

HAZARD LINE

CROSS REFERENCE LISTING - BY CHEMICAL NAME

C131XREF-NAME

RUN DATE 06/20/85

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CHEMICAL NAME

	OHS #	CAS #
DICHLORODIPHENYLSILANE	OHS08130	80-10-4
DICHLORODISPHENYLSILICANE	OHS08130	80-10-4
DICHLOROETHANOIC ACID	OHS06220	79-43-6
DICHLOROETHANOYL CHLORIDE	OHS06830	79-36-7
DICHLOROETHER	OHS06890	111-44-4
DICHLOROÉTHYL ÉTHER	OHS06890	111-44-4
DICHLOROETHYL OXIDE	OHS06890	111-44-4
DICHLOROETHYL-BETA-NAPHTHYLAMINE	OHS04660	494-03-1
DICHLOROETHYLALUMINUM	OHS09270	563-43-9
DICHLOROETHYLENE	OHS09390	107-06-2
DICHLOROÉTHYLPHÉNÝLSILANÉ	OHS09630	1125-27-5
DICHLOROETHYLSILANE	OHS09320	1789-58-8
DICHLOROETHYNE	OHS06840	7572-29-4
DICHLOROFUROMETHANE	OHS06900	75-43-4
DICHLOROISOCYANURIC ACID POTASSIUM SALT	OHS19360	2244-21-5
DICHLOROISOCYANURIC ACID. SODIUM SALT	OHS21180	2893-78-9
DICHLOROISOCYANURIC ACID. POTASSIUM SALT	OHS19360	2244-21-5
DICHLOROISOCYANURIC ACID. SODIUM SALT	OHS21180	2893-78-9
DICHLOROISOPROPYL ALCOHOL	OHS26790	96-23-1
DICHLOROISOPROPYL ETHER	OHS03150	108-60-1
DICHLOROMÉTHANE	OHS14930	75-09-2
DICHLOROMETHYL BENZENE	OHS02850	98-87-3
DICHLOROMETHYLARSINE	OHS14890	593-89-5
DICHLOROMETHYLPHENYLSILANE	OHS14960	149-74-6
DICHLOROMETHYLSILANE	OHS14900	75-54-7
DICHLOROMÉTHYLSILICANÉ	OHS14900	75-54-7
DICHLOROMETHYLVINYLSILANE	OHS15000	124-70-9
DICHLOROMONOETHYLALUMINUM	OHS09270	563-43-9
DICHLOROMONOFUROMETHANE	OHS06900	75-43-4
DICHLOROMONOMETHYLSILICON	OHS14900	75-54-7
DICHLORONAPHTHOQUINONE	OHS06810	117-80-6
DICHLORONITROETHANE	OHS26230	594-72-9
DICHLOROOXOVANADIUM	OHS24760	10213-09-9
DICHLOROOXOZIRCONIUM	OHS25640	7699-43-6
DICHLOROPENTANE	OHS06910	30586-10-8
DICHLOROPHÉNOXYACÉTIC ACID	OHS28510	94-75-7
DICHLOROPHENYL PHOSPHINE	OHS02630	644-97-3
DICHLOROPHENYL TRICHLOROSILANE	OHS06930	27137-85-5
DICHLOROPHENYLARSINE	OHS06920	696-28-6
DICHLOROPHENYL METHANE	OHS02850	98-87-3
DICHLOROPHENYLTRICHLOROSILANE	OHS06930	27137-85-5
DICHLOROPHOSPHORIC ACID. ETHYL ESTER	OHS09190	1498-51-7
DICHLOROPROPANE	OHS06940	26638-19-7
DICHLOROPROPENE	OHS06950	26952-23-8
DICHLOROPRÓPÉNÉ (MIXED ISOMER)	OHS26820	542-75-6
DICHLOROPROPENE-DICHLOROPROPANE MIXTURE	OHS06950	26952-23-8
DICHLOROPROPIONANILIDE	OHS06960	8003-19-8
DICHLOROPROPYLENE	OHS19710	709-98-8
DICHLOROPROPYLENE (MIXED ISOMER)	OHS06950	26952-23-8
DICHLOROSILANE	OHS06970	4109-96-0
DICHLOROSILICANE	OHS06970	4109-96-0
DICHLOROTETRAFLUOROETHANE	OHS06980	1320-37-2
DICHLOROTHIOCARBONYL	OHS23390	463-71-8
DICHLOROTIN	OHS21840	7772-99-8
DICHLOROTRIPHÉNÝLANTIMONY	OHS06990	594-31-0
DICHLOROTRIPHENYLTIBINE	OHS06990	594-31-0
DICHLOROXOCHROMIUM	OHS05080	14977-61-8
DICHLORPROPAN	OHS06940	26638-19-7
DICHLORVOS	OHS07000	62-73-7
DICHRÓMIC ACID (H ₂ CR ₂ O ₇) DIAMMONIUM SALT	OHS01210	7789-09-5
DICHROMIC ACID (H ₂ CR ₂ O ₇). DIRUBIDIUM SALT	OHS20230	13446-73-6
DICHROMIC ACID. DIAMMONIUM SALT	OHS01210	7789-09-5
DICHROMIC ACID. DIPOTASSIUM SALT	OHS19370	7778-50-9
DICHROMIC ACID. DISODIUM SALT	OHS21190	10588-01-9
DICHRÓMIC ACID. ZINC SALT (1:1)	OHS25390	14018-95-2
DICHRONIUM SULFATE	OHS04970	10101-53-8
DICHRONIUM SULPHATE	OHS04970	10101-53-8
DICHRONIUM TRIOXIDE	OHS05060	1308-38-9
DICHRONIUM TRISULFATE	OHS04970	10101-53-8
DICHRÓMIUM TRISULPHATE	OHS04970	10101-53-8
DICLORAN	OHS28910	99-30-9

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210



July 25 1985

MEMORANDUM FOR: JOHN E. PLUMMER, Director
Office of Federal Agency Programs

FROM: JOHN J. HYNAN
Deputy Associate Solicitor for
Occupational Safety and Health

SUBJECT: Application of OSHA's Hazard Communication
Standard to Agencies of the Federal
Government.

Issues: 1. Does OSHA's hazard communication standard (29 CFR 1910.1200) apply to agency heads of the U.S. Government?

2. May the hazard communication standard be construed to require private sector manufacturers and suppliers to provide MSDS and labeling to Federal agencies to protect Federal employees?

CONCLUSION: 1. Yes, pursuant to Executive Order 12196, all Federal agency heads are required to comply with all OSHA standards, including the hazard communication standard.

2. Application of the standard to Federal agency heads may not, however, be construed as requiring private employers to take any action with respect to Federal agencies, including supplying material safety data sheets to the agencies.

RATIONALE: The provision of the OSH Act controlling the scope of the Act's coverage is section 3(5) that contains the definition of the term "employer" as used in the Act; 1/ that term is broadly defined as "a person engaged in a business affecting commerce...but does not include the United States," thus covering virtually every private sector employer, but excluding the Federal Government. Because of the exclusion, those who work for the the Federal Government do not come

1/ The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

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within the Act's definition of the term "employee."^{2/} Therefore, the Federal Government and the persons employed by it are not covered by the general provisions of the OSH Act.

Congress, however, did not intend that Federal employees be without protection from workplace hazards, so a special section was included in the OSH Act to provide separate protection for Federal employees otherwise not available to them under the other provisions of the statute. Congress provided that only sections 19 and 24 of the OSH Act apply to the Federal Government. (Section 24 deals with statistics and is not germane to this memorandum's discussion; section 19 is the significant section.) Section 19 requires agency heads to establish and maintain effective job safety and health programs in their agencies to protect the Federal workers employed there.

To insure that such programs are effective, the President issued Executive Order No. 12196 which, among other things, requires agency heads to comply with the OSHA standards issued under section 6 of the Act and requires OSHA to issue basic program elements (29 CFR Part 1960) in order to assist agencies in carrying out their OSH responsibilities under the Act and Executive Order. Part 1960 requires agency heads, inter alia, to provide "specialized job safety and health training appropriate to the work performed by the employee." 29 CFR 1960.59(a). Further, Part 1960 requires that 1) procuring agencies ensure that hazardous materials are labelled; 2) all agencies use MSDS; and 3) all agencies use the data from the MSDS "to develop detailed procedures to advise employees in the workplace of the hazards involved with the materials and to protect them therefrom." 29 CFR 1960.34. Thus, all the basic protections required by the hazard communication standard already exist in Part 1960; the standard merely fleshes out Part 1960's requirements of training and information and use of MSDS and labeling. However, that standard, for the reasons noted above, cannot be construed as requiring private sector manufacturers, suppliers or employers to take any action with respect to Federal agencies. Thus, the responsibility for acquiring MSDS and ensuring appropriate labeling lies with the procuring or using Federal agency.

^{2/} The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

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Because OSHA standards issued under section 6 are designed to apply to employers in the private sector, an occasional problem may arise concerning the applicability of a particular standard in the Federal sector. The hazard communication standard presents such a problem because it currently applies only to employers in manufacturing SIC codes. Because the codes are based on the primary activity of an establishment ^{3/}and government establishments are to be classified according their primary activity, it is clear that those Federal establishments that engage in manufacturing as described in SIC Codes 20-39 are covered by the requirements of the hazard communication standard except as noted above. For example, an agency print shop, being a "manufacturing establishment," would be specifically covered by the standard regardless of the classification of the remainder of the agency establishments. For those Federal establishments whose employees are exposed to hazardous chemicals but whose activities are not considered manufacturing, the standard provides valuable guidance in complying with the already existing requirements of Part 1960 and in furnishing places and conditions of employment free from recognized hazards as required by paragraph 1-201(a) of the Executive Order and 29 CFR 1960.8(a).

3/ The SIC definition does not conflict with, nor supersede, the definition set forth in Part 1960; it provides the following, in pertinent part:

For purposes of this classification, an establishment is an economic unit, generally at a single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, movie theater, mine, farm, ranch, bank, railroad depot, airline terminal, sales office, warehouse or central administrative office).

Where distinct and separate economic activities are performed at a single physical location (such as construction activities operated out of the same physical location as a lumber yard), each activity should be treated as a separate establishment whenever (1) no one industry description in the classification includes such combined activities; (2) the employment in each such economic activity is significant; and (3) reports can be prepared on the number of employees, their wages and salaries, sales or receipts, and other establishment type data.

- 4 -

On May 24, 1985, the U.S. Court of Appeals (Third Circuit) issued its decision in United Steel Workers, AFL-CIO-CLC v. Thorne G. Auchter, 12 BNA OSHC 1337 (May 24, 1985), a case in which several aspects of the hazard communication standard were challenged. The challenge germane to this discussion was to the standard's applicability solely to manufacturing. The Court upheld the challenge, finding that OSHA's explanation for excluding non-manufacturing businesses is deficient and remanding the standard to the agency to reconsider this aspect. The court made clear, however, that the standard is to take effect according to its terms in the manufacturing sector. This decision does not affect Federal programs except to the extent that it upholds the standard as effectively promulgated pursuant to the Act thereby confirming its applicability in the Federal sector.